

MEMORANDUM OF LAW

DATE: October 31, 1994

TO: Bill Wilson, General Manager, San Diego Jack Murphy Stadium
("Stadium")

FROM: City Attorney

SUBJECT: Smoking at the San Diego Jack Murphy Stadium
BACKGROUND

By a memorandum dated September 9, 1994, you requested our views of the applicable ordinances concerning smoking at the Stadium. This question was posed as the result of a letter sent to the Stadium concessionaire, Service America, by one Jerome Ghigliotti, Jr. Attorney-At-Law, dated August 22, 1994, who contended that the concession areas at the Stadium are subject to the general smoking control ordinance of the City.

CONCLUSION

Mr. Ghigliotti is incorrect. As you can see from the well-reasoned memorandum to me from Senior Legal Intern Jacqueline Mittelstadt, the general smoking control ordinance of the City is inapplicable to the Stadium.

At my request, Ms. Mittelstadt also reviewed the prospective effect, if any, on the current smoking ban at the Stadium of a new State law (AB 13 - effective January 1, 1995) and a statewide proposition (Proposition 188 on the November 1994 ballot).

As you can see from her analysis, AB 13 would apparently not affect the Stadium smoking ban, but Proposition 188 could have the anomalous effect of affecting the current Stadium prohibition.

Since there is some question whether the statewide proposition will be successful, I would suggest we do not speculate further on its ultimate effect at this time.

JOHN W. WITT, City Attorney

By

C. M. Fitzpatrick

Assistant City Attorney

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Enclosures

ML-94-83